

HOUSE BILL NO. 567

INTRODUCED BY M. LINDEEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR EQUITABLE AND NONDISCRIMINATORY PAYMENT OF INTERCARRIER COMPENSATION; DEFINING "ACCESS SERVICES", "COMPETITIVE LOCAL EXCHANGE CARRIER", "INTEREXCHANGE CARRIER", AND "INTEREXCHANGE SERVICES", ~~AND "LOCAL EXCHANGE CARRIER"~~; AMENDING SECTION 69-3-803, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-3-803, MCA, is amended to read:

"69-3-803. Definitions. As used in this part, the following definitions apply:

(1) "Access services" means switched or special access to the network of a local exchange carrier for the purpose of originating or terminating interexchange telecommunications.

~~(1)(2)~~ (2) "Commission" means the public service commission.

(3) "Competitive local exchange carrier" means a telecommunications carrier, other than an incumbent local exchange carrier, registered with the commission to provide local telephone exchange service in Montana through the use of its own telecommunications facilities, unbundled network elements, or some combination of the two, that is providing local telecommunications service in an area served by an incumbent local exchange carrier.

~~(2)(4)~~ (4) "Eligible telecommunications carrier" means a telecommunications provider designated by the commission under 69-3-840.

~~(3)(5)~~ (5) "Fund" means the universal service fund established in 69-3-842.

~~(4)(6)~~ (6) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) on February 8, 1996, provided telephone exchange service in the area; and

(b) on February 8, 1996, was considered to be a member of the exchange carrier association pursuant to 47 CFR 69.601(b) or is a person or entity that, after that date, became a successor or assign of a member of the exchange carrier association.

(7) "Interexchange carrier" means any telecommunications carrier registered with the commission to provide interexchange services in Montana.

(8) "Interexchange services" means telecommunications long-distance services.

~~(9) "Local exchange carrier" has the meaning provided in 53-19-302 for a local exchange company.~~

~~(5)(10)~~(9) "Private telecommunications service" means a system, including the construction, maintenance, or operation of the system, for the provision of telecommunications service or any portion of the service, by a person or entity for the sole and exclusive use of that person or entity and not for resale, directly or indirectly. For purposes of this definition, the term "person or entity" includes a corporation and all of its affiliates and subsidiaries if the corporation, affiliates, and subsidiaries have a common ownership or control of 80% of the outstanding voting shares.

~~(6)(11)~~(10) (a) "Regulated telecommunications service" means two-way switched, voice-grade access and transport of communications originating and terminating in this state and nonvoice-grade access and transport if intended to be converted to or from voice-grade access and transport.

(b) The term does not include the provision of terminal equipment used to originate or terminate the regulated service, private telecommunications service, one-way transmission of television signals, cellular communication, or provision of radio paging or mobile radio services.

~~(7)(12)~~(11) "Retail revenue" means the gross Montana revenue from telecommunications services that originate or terminate in Montana and are billed for a service address in Montana, excluding revenue from the resale of telecommunications services to another telecommunications services provider that uses the telecommunications services to provide telecommunications services to the ultimate retail consumer who originates or terminates the transmission.

~~(8)(13)~~(12) "Rural telephone company" means a local exchange carrier operating entity to the extent that the entity:

(a) provides common carrier service to any local exchange carrier study area that does not include either:

(i) all or any part of an incorporated place of 10,000 inhabitants or more based on the most recently available population statistics of the United States bureau of the census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the United States bureau of the census as of August 10, 1993;

(b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(c) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(d) has less than 15% of its access lines in communities of more than 50,000 on February 8, 1996.

~~(9)(14)(13)~~ "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing without a change in the form or content of the information upon receipt.

~~(10)(15)(14)~~ "Telecommunications carrier" or "carrier" means any provider of telecommunications services. A person providing other products and services in addition to telecommunications services is considered a telecommunications carrier only to the extent that it is engaged in providing telecommunications services. The term does not mean aggregators of telecommunications services as defined in 47 U.S.C. 226."

NEW SECTION. Section 2. Interexchange services -- nondiscrimination. (1) An interexchange carrier providing services in any local exchange service area in Montana may not refuse to make available originating or terminating interexchange services to customers of competitive local exchange carriers in that local exchange service area based upon the customer's selection of the competitive local exchange carrier for local telecommunications service, provided that the competitive local exchange carrier's rates for access services in the service area are presumed reasonable as provided in [section 3(2)].

(2) Any interexchange carrier providing services in Montana shall:

(a) terminate telecommunications traffic with local exchange carriers via dedicated trunk facilities capable of identifying and measuring telecommunications traffic by the originating carrier; or

(b) purchase terminating services from a carrier that has such dedicated arrangements with the local exchange company.

NEW SECTION. Section 3. Payment of compensation for access services provided by local exchange carriers. (1) Subject to the provisions of subsection (3), any interexchange carrier receiving access services from a local exchange carrier, EITHER DIRECTLY OR INDIRECTLY THROUGH ANOTHER CARRIER, shall

1 compensate the local exchange carrier according to the terms and conditions of the tariffs or price lists
2 filed with the commission by the local exchange carrier.

3 (2) ANY COMPETITIVE LOCAL EXCHANGE CARRIER MAY FILE WITH THE COMMISSION TARIFFS FOR ACCESS
4 SERVICES, CONTAINING MAXIMUM ALLOWABLE RATES, AND MAY FILE PRICE LISTS CONTAINING THE ACTUAL RATES
5 CHARGED FOR ACCESS SERVICES. THE PRICE LISTS MAY BE AMENDED UPON NOTICE, AS DIRECTED BY THE COMMISSION.

6 Rates contained in any competitive local exchange carrier's ACCESS SERVICES TARIFF OR price list filed with
7 the commission pursuant to subsection (1) must be conclusively presumed reasonable and not subject to
8 any further review or revision by the commission if the rates for any given local exchange service area are
9 equal to or lower than ~~either:~~

10 ~~—— (a) the rate for access services then in effect for the incumbent local exchange carrier in the local~~
11 ~~exchange service area if the local exchange service area has a population of more than 20,000; or~~

12 ~~—— (b) the rate for access services then in effect for interstate access services as published by the~~
13 ~~national exchange carriers' association if the local exchange service area has a population equal to or less~~
14 ~~than 20,000~~ THE INTRASTATE COMPOSITE SWITCHED CARRIER ACCESS RATE FOR THE LARGEST INCUMBENT LOCAL

15 EXCHANGE CARRIER OPERATING IN MONTANA.

16 (3) (a) An interexchange carrier purchasing access services from a competitive local exchange
17 carrier that charges rates in excess of the presumptively reasonable rates provided for in subsection (2)
18 may file a complaint with the commission requesting a review of the rates pursuant to 69-3-321.

19 (b) While the complaint is pending, the interexchange carrier must be relieved of the obligation to
20 pay that portion of the competitive local exchange carrier's rates that exceed the rates established in
21 subsection (2).

22 (c) Upon resolution of the complaint, the commission may order any retroactive adjustments or
23 payments considered appropriate.

24 (4) Any local exchange carrier, including competitive local exchange carriers and rural telephone
25 cooperatives organized under the Rural Electric and Telephone Cooperative Act provided for in Title 35,
26 chapter 18, may file a complaint with the commission seeking enforcement and collection of charges for
27 access services under this section, and the commission shall have jurisdiction to hear the complaints.

28 (5) (a) The commission shall have jurisdiction over the providers of regulated telecommunications
29 services for the purpose of hearing complaints and issuing final orders under this section that may include
30 the assessment of amounts owed from or to a local exchange carrier for access services.

1 (b) The commission ~~shall~~ MAY adopt rules for the implementation of this subsection(5). The rules
2 must provide for the expedited resolution of complaints filed under this section.

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4 NEW SECTION. Section 4. Codification instruction. [Sections 2 and 3] are intended to be codified
5 as an integral part of Title 69, chapter 3, part 8, and the provisions of Title 69, chapter 3, part 8, apply
6 to [sections 2 and 3].

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8 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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